

Town of Milton
Special Town Council Workshop Meeting Minutes
Milton Library, 121 Union Street
March 14, 2007

The meeting was called to order at 6:00 P.M. by Mayor Don Post.

Present: Councilman Frey
Councilwoman Melson
Mayor Post

Also Present: George Dickerson
Stephanie Coulbourne
Deanna Duby

Meeting purpose is to discuss the Proposed Charter Revisions that have been presented by the Ad-Hoc Charter Review Committee. The following are the comments given by members present at the meeting.

Section 28A: No comments/suggestions

Section 28B: No comments/suggestions

Section 28C: No changes or comments

Section 28D: No changes or comments

Section 28E: Consensus requests that the delinquent date should read March 31st, and not “thirty (30) days” for late fee to be imposed on taxes.

Section 28F: George Dickerson: Proposed that only the red-lined changes be read to speed up the process/meetings. Mayor Post: Requested that they continue as they have always done.

Section 28G: No comments/suggestions

Section 28H-4: Mayor Post: We need to match up in changing with the things replaced and be consistent throughout the Charter. C. Frey: We changed it from 5 to 4 places, but didn’t say where. Mayor Post: with the re-write, we just have to make sure its uniform and always include the website. C. Councilwoman Melson: Should “premises” be changed to “property”? Mayor Post: I would strike “premise” and change to “real property” so it is uniform in the verbiage.

Section 28H-6: Mayor Post: To make things consistent, add “her” to “his heirs”.

Section 28H-7: George: Suggests changing “some bank” to “a bank” and strike “in the Town of Milton”.

Section 29C-2: George: Our Auditor, Mr. Sombar, recommends striking this item in its entirety. Stephanie: He said that the value of the supplies and materials on hand did not have to be added into the budget. Said it’s done at the audit, not the budget. Mayor Post: We should strike this item all together as recommended by our auditor.

Section 29D: Stephanie Coulbourne: You are presenting it at the August meeting, and then 10 days later have a public hearing which you’ve got to post 7 days prior and no more days after that, having a workshop. Could you not combine the public hearing with the workshop? Councilman Frey: You could under this the way it is written, because it says no more than 15 days later. C. Melson: But would you have any time in your public hearing to make changes if you wanted to in time for if you held a separate workshop? Stephanie: The Council Meeting is on a Monday night. In order to make the deadline, for some newspapers, it would hit their editions until Friday and we couldn’t have the Council meeting until the following Friday, and that is more than 10 days. Mayor Post: That is not going to work. The consensus voted on changing “10 days” to “15 days later have a public hearing” and change “shall” to “may hold a workshop”, and the that the Budget rough draft shall be given to Council no later than July 31st (60 days prior to October 1st).

Section 30A-1: George: The interpretation of transparency and public participation as being defined; it should have it and now it’s written word, what does it mean? Deanna Duby: One of the things that we discussed several times over this process was the idea of doing a glossary to define the words but we just didn’t have the

time to do it. Mayor Post: Circle the words and we'll go back to them. George: If you put the next two words in here, while public participation is important, you are then saddled with it. Mayor Post: Everything as put in there by the FOIA that we just received by the AG's office, it does not require public participation; we are running a business. Circle those two words. Everything should not require public participation, so I think that needs extensive consideration.

Section 30A-2: Mayor Post: That needs to be sent over to John Brady for his comments. Deanna: The thing that we were concerned with here was how we could figure this out in such a way that it won't limit those activities, so we put a few questions down for him to review.

Section 30A-4: George: The current Charter and the proposed change, does anybody think that doesn't jive. Deanna: Basically how this is going, because we dropped out #1, and changing the number, and merging, so the content of these are rarely different, they just have a different number.

Section 30A-6: George: If Dogfish Head can's beer, do we regulate that and have an inspector inspecting the cans? Mayor Post: I don't think it's a requirement, it's an option. Deanna: These are powers delegated. George: So if they do can beer, and you don't do an inspection, and someone drinks it and becomes violently ill...the question is liability. Deanna: You might have liability but I don't think you have it through this, because all it says it that you have the ability to do it. Mayor Post: And we chose not to. Ask John again on that one.

Section 30A-9: Mayor Post: I would change it from "Milton community" to "the Town"; again consistent verbiage.

Section 30A-10: Mayor Post: Be consistent of where we place the four things but it says 4 newspapers. Again, are we going to talk about "in addition, the Town Council shall hold one public information session", I mean do we want to be consistent to what we are holding in the past? Do we want it to be a public hearing, a workshop, or what do we want it? I think it should be a public hearing and take out the fact that "the Council shall hold one public information..." Fluoride is a big issue and I do think it would not hurt to hold a public hearing. However we do it, we should somehow notify the public. So do we want to add "In addition, the Town Council should hold one public information session and one public hearing on this subject for town citizens." C. Frey: Can we add "(may) hold a public hearing..." and that gives us the right to have one or not.

Section 30A-11: Mayor Post: I recommend that this go to the Town Solicitor for review to see if it's in compliance with the privatization in the contract, and then therefore if it needs some verbiage sense, then we will be able to move accordingly.

Section 30A-12: C. Frey: Didn't we have a lot of this discussion on this? Deanna: The fifty feet. C. Frey: We talked about the property we own where the sewer plant is. Fifty feet from the high tide wouldn't give us much usable property. George: There's always the possibility of bulk-heading from the high or low water mark. Mayor Post: I think it should read "from both high tidal and fresh water ponds, lakes and rivers, in compliance with county, state and federal provisions". I don't think we should put anything in there about 50 feet. I think we should have to be in compliance with the county, state and federal government anyways, and I think we should not limit it to the 50 ft; that whatever the county, or whoever has the strictest, that is who we have to go by and that resolves the whole issue. George: About restricting the feet. Let's say that you have property you just happen to be contiguous to the river and the bank, either low or high tide, and let's say there are places, and the sewer plant property is probably one of those, that you will never see high tide enough to come up to it. C. Frey: What about the property next to it that floods that we want to give permission to put the boat in? Mayor Post: It is already regulated. We do not want to do anything that would restrict a work along the riverfront that it's our biggest asset and we should be using that asset and not being detrimental to that asset. So if the Marina project goes through, if this type of verbiage is detrimental to that project, where it would not work, but I don't really think the marina floods, I think where they wanted to put the boat that would be the issue. So are we saying that we don't want to utilize that land because the flood point there is on the other side

of Front Street? We need to watch our verbiage which is already regulated and I don't have a problem with having a walkway between it, like Governor's Walk, as a buffer to the river, and rip-rap. But to sit there and make it where the land will become unusable, and I question that even in the court of law, when you are devaluing somebody's property by writing something like that. Deanna: I think the EPA is in the process of changing their requirement and making more of a set-back and the state was too, but it might up being more. C. Frey: And we would have to go by that anyway. Mayor Post: Any town that has a river is utilizing the river; it's a big asset. They may state it in a certain area, like within a municipality; they may give a different distance. George: I'll ask John about that.

Section 30A-13: Mayor Post: In this one, assuming the time we looked at the sewer water, We were told us it needed to be looked at if it was going to be privatized, he left it the way it was and not to redo it. This is a similar kind of thing, so you might want to have him take a look at this too and see if anything needs to be added or changed.

Section 30A-15: Mayor Post: How I read this, because I read this in the previous one, is that you could not provide an exclusive if a franchise already exists with any of these, and that is why that end is kind of where it says "provided that no exclusive franchise or license shall be granted for any such purpose..." One question...what's a strand? George: It's a strip of land.

Section 30A-17: George: Can you do privately held lands? Mayor Post: I think you can, but you can throw it over to him, and that is what the tree ordinance is going to be about. It's just like anything we set up ordinances for; you certainly can govern it.

Section 30A-20: George: To regulate and control the manner in the sign...Town Center, why are we limiting it to Town Center and designated the historic district, why are we just focused on that? Mayor Post: Because that is the area of focus. You can take that out, it doesn't matter you can it for the whole town if you want. C. Frey: I think it should be for the whole town. George: What you have in the old 23 is in turn 21, for the prevention of fire prevention of the...of the town, and for some reason Town Center does..., I think it is important. When you talk about design of buildings, design is a Planning & Zoning issue by regulation of design standards. But when you talk about this, for prevention of fire, aren't you concerned about the whole town? Mayor Post: I think we do need to specify the historic district should come in here because we need to make sure we regulating the historic district and the Town Center is part of that. If you want to take it out, we need to leave the Town Center as in the historic districts. George: I don't understand that thought. Mayor Post: We do have design standards. That's what your districts is. George: No, you have a historic district; you do not have design standards. And we do need design standards but that is a P & Z regulation. Mayor Post: I think we need to designate about the historic district and the removal of dwellings in the historic district, especially if we want to put the whole town, that's fine, but we need to start getting some meat into this. We are having our town destroyed piece by piece. Mayor Post: I would put in "the town" and just take out Town Center and designate it in the town of Milton. George: Design shouldn't be covered in Charter that should be a P & Z issue. Deanna: Could you make this cover the whole town but then do, not a footnote, but note in there also please review Town Center or Historic Ordinance that you'd know that if it pertained to the historic part of the town it may be different? George: As an example of interpretation, Jack lives in Wagoman's. If I lived in Wagoman's and I read this, I would say they're concerned about fire prevention in the whole town, but why did they say Town Center and Historic District? Aren't they concerned about Wagoman's as much as that? Mayor Post: I think you reading this as this is for the prevention of fire and the preservation of beauty of the town. And it's to regulate and control the manner and design of buildings in the Town Center and its two different things here. George: But you don't control design and building in a Charter. You do it through an ordinance or code, from the Historic and/or P & Z or Board of Adjustments. Charter talks about the town, not specific segments of the town. Mayor Post: Wants to check if any other towns include historic preservation in their Charter, because I think we need to make a commitment and it's time. C. Frey: Like George said, what about

the rest of the town? I think you have Historic Preservation and Town Center on your mind. You're not worried about the rest of the town. Mayor Post: That includes the entire town. C. Frey: Strike everything out. Mayor Post: That's fine. I am going to look to see what in other towns what Charter does to protect Historic Preservation, because you wouldn't have the developments if you didn't have it, people wouldn't move here. C. Frey: Are we going to strike 21 and put 23 up where 21 is? Mayor Post: Yes, strike 21 and replace it with the original, 23, which is in this one.

Section 30A-25: Mayor Post: Ordinances would be violation of codes and all? George: We have ordinances that have specific penalties contained within them. Usually if you are talking about a Delaware code, if it were to be a criminal code for example, anything that doesn't have a penalty associated with the law violation and specific within it, it is usually a minimum fine. Was that the intent here? Mayor Post: Can you not put more than a \$1000? Say for example, and I don't know what that new ordinance reads that the historic Ad-Hoc committee did, they had a real problem up in Dover where one of the oldest homes in the State of Delaware was ignored by the developer and torn down, and then he got heavy fines. A thousand is nothing. As far as I'm concerned, I think we need to say up to \$100,000. George: What you are limiting yourself here to, no matter what the ordinance, when it says "any ordinance within a town", the "any" should be taken out. Really, if you say an ordinance, you are limiting yourself when you write an ordinance and/or your not if you put a penalty section in there you could not... Deanna: What if you say "any ordinance", "any violation of ordinance may"? Could you do the "may"? George: Back to what Don was saying. If a developer comes in, gets a demo permit, it gets through and it's in the Historic district and we don't know, and all of a sudden he's got a crane there and starts tearing it down. We tell him to stop and he doesn't, he continues. The historic preservation has said you can't tear this down. The penalty is a \$10,000 fine per day. This would not allow you to do that within the ordinance. Mayor Post: That's why we either need to make this real high so we are protected, like \$100,000, or nothing and put it as stated in the ordinance. C. Frey: The Charter oversees everything in the Town ordinance. Mayor Post: Just leave all or both thereon, and stop it at imprisonment. C. Frey: Can't do that because not everything is covered in the ordinance. Mayor Post: I think we should put a lot of money there and be safe. And whatever we vote on and we're not going to go with anything over \$100,000. George: What if you impose a \$10,000/day; it takes you 10 days to get you to \$100,000. I will talk to John. Mayor Post: We want it very well protected there.

Section 30A-28: Mayor Post: Is \$1 million realistic? George: Yes. We're collecting close to \$500,000. Mayor Post: Do you think that's safe or should we put \$2 million? C. Frey: We went from \$500,000 to \$1 million. The old one said \$500,000. George: The reason we went up is because we are close to \$500,000 now. So if you want to make it \$2 million that's okay. Mayor Post: Ok. We can always go back and make changes to that.

Section 30A-39: C. Frey: We are changing "elected members" throughout the Charter? Mayor Post: Yes. We are taking out the word elected, and changing it to "majority members of the Town Council". George: I would like to add "equal pension plans for all employees" because we have a disparity. Mayor Post: Police have a different plan? George: Yes. They can have a different plan and it is under the municipal police officers pension of the State of Delaware. The only thing is it's not geared for non-police personnel of the town for the police to get a higher percentage of pension plan than it is for non-police. Mayor Post: It just depends on if it's compensated by another area. Is it compensated by state? George: Some of it is. Not all of it. Deanna: You could put it in here but I'm not sure, I don't know what pension plan, or whatever you said, you say equal pension plans... George: As an example, if I am a police officer in the state, and because the general assembly has passed legislation where I should get this x-number based on that, and the town's portion of that pension that still has to be paid toward that fund even though we may get some of that back. The other non-police should receive the same proportionate rate; that the town pays for one should pay for the other. Mayor Post: Talk to John Brady.

Section 30A-40: Stephanie: It says in here the fund should be repaid from the General Fund. So that means we cannot make payments from proprietary funds if it falls under the water project? We wouldn't be able to use the water proprietary fund to make payments? Mayor Post: Good point. Councilman Frey: Or would you say "appropriate"? Mayor Post: That would fix it. Stephanie: And 10 fiscal years...I'm looking at the statement of all income that we have now, I believe that is more than 10 years and it was more than \$500,000; which the prior Charter said \$250,000, and it's far more than that. Mayor Post: So it was over a million. George: \$1.2 million. Stephanie: So can we change it to say "general fund"? George: Just say from the "appropriate fund", that way we can closer direct it, that's what we do, that more accurately reflects what we do.

Section 30A-41: Mayor Post: I do not see how you can do this "3 miles from the said limits". Deanna: You could say "environmental emergency" or "health emergency". Mayor Post: You can do that. As long as we can do it, I don't care about leaving it in there.

Section 30A-42: Mayor Post: So we don't need to put parks in here because it just says "including but not limited to". George: You can also, well not limited to, so parks can be included but if you want it stated you can add "parks". Mayor Post: Add "parks".

Section 30A-44: C. Frey: 44 is 42 now. George: It was just shown for reference.

Section 31A: George: Isn't that redundant. I mean, actually, because if they're saying you can do it it's semantics after that part, isn't it? It's saying what you can but only after "recommended actions have been made at the Council meeting". So you present what the action is going to be and now chance for public comment. Deanna: If you assume that nobody's going to give you public comment, you might change your mind. I do think the language is redundant. I think you could end it after "survival". I'm not sure if you whether we worded this the way we did to require that there be two Town Council meetings. Another words, Council Meeting A, we open to public comment, but we can't take a vote until the next meeting. Mayor Post: Why don't you just put "opportunity for public comment", because for one you could hold a public hearing or whatever you want to do...we could do it the day of the meeting? You can let them speak, you are going to make your decision, something like that you don't need to take time. But this way, just drop it and say "for public comment", than you could provide public comment at that meeting if you wanted to.

Section 31B-1: Mayor Post: The only change in one is they are changing the number from 5 to only 1 or more property owners.

Adjournment: 7:49 p.m.

Respectfully Submitted,

Julie Powers
Executive Secretary